

# **Residential Property (Amendment) Bill**

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**Bill No. 1/2006.**

*Read the first time on 16th January 2006.*

A BILL

*intituled*

An Act to amend the Residential Property Act (Chapter 274 of the 1985 Revised Edition) and to make consequential amendments to the Companies Act (Chapter 50 of the 1994 Revised Edition) and the Singapore Land Authority Act (Chapter 301 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the Residential Property (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2(1) of the Residential Property Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the definition of “approved purchaser” and substituting the following definition:

10 ““approved purchaser” means —

(a) a Singapore company;

(b) a Singapore limited liability partnership;

(c) a Singapore society;

15 (d) a foreign person to whom approval has been granted under section 25, 30 or 31;

(e) any person, company, limited liability partnership, society, association or other organisation or body who or which has been exempted by the Minister under section 32; or

20 (f) any body, corporate or otherwise, declared by the Minister by notification in the *Gazette* to be a public authority or an instrumentality or agency of the Government;”;

(b) by deleting the definition of “Controller of Housing”;

25 (c) by deleting the definitions of “converted foreign company”, “converted foreign limited liability partnership” and “converted society” and substituting the following definitions:

30 ““converted foreign company” means any Singapore company which becomes a foreign company on or after 1st October 1976 while being an owner of an estate or interest in any residential property that is not non-restricted residential property;

“converted foreign limited liability partnership” means any Singapore limited liability partnership which becomes a foreign limited liability partnership on or after 11th April 2005 while being an owner of an estate or interest in any residential property that is not non-restricted residential property;

“converted society” means any Singapore society which becomes a foreign society on or after 1st October 1976 while being an owner of an estate or interest in any residential property that is not non-restricted residential property;”;

(d) by inserting, immediately after the definition of “court”, the following definition:

““director”, in relation to a company, means any person occupying or acting in the position of director of the company, by whatever name called;”;

(e) by deleting the definition of “foreign company” and substituting the following definition:

““foreign company” means any company (whether a holding company or otherwise) other than a Singapore company;”;

(f) by deleting the definition of “foreign person” and substituting the following definitions:

““foreign person” means any person who is not any of the following:

- (a) a citizen of Singapore;
- (b) a Singapore company;
- (c) a Singapore limited liability partnership;
- (d) a Singapore society;

“foreign society” means any society other than a Singapore society;”;

(g) by deleting the definition of “land” and substituting the following definition:

““land” has the same meaning as in the Land Titles Act (Cap. 157);”;

(h) by deleting the definition of “member” and substituting the following definitions:

5 ““mean average of 2 valuations” means the sum of any 2 specified valuations divided by 2;

“member”, in relation to any company, means —

- (a) any person who owns a share or holds a membership in the company;
- 10 (b) in the case of a share or membership in the company that is held in trust, the person who is the beneficiary of the trust; or
- (c) any person, not being an owner of a share or a holder of a membership in the company, who controls any rights attached to any share or membership in the company through a contract or other arrangement;”;

15 (i) by inserting, immediately after the definition of “mortgage”, the following definitions:

20 ““non-restricted residential property” means any residential property described in section 4(1) but not in section 4(2);

“notice to attach and sell” means any notice issued by the Minister under section 3(6), 4(8), 5(7), 9(11), 22(3), 27(3) or 32(2A) directing the Controller to attach and sell in accordance with this Act such estate or interest in such residential property or land as is specified in the notice;”;

25 (j) by deleting the definition of “Singapore company” and substituting the following definition:

30 ““Singapore company” means any company which satisfies the following requirements:

- (a) the company is incorporated in Singapore and its directors and members are all citizens;

- (b) if any member of the company is another company, that other company satisfies the requirements of paragraph (a);
- 5 (c) if that other company referred to in paragraph (b) has a member which is a company, which in turn has a member which is also a company and so on, all the members of each such company consist only of any or any combination of the following:
- 10 (i) citizens; and
- (ii) companies that satisfy the requirements of paragraphs (a) and (b); and
- (d) if any member of the company is a limited liability partnership, that limited liability partnership is a Singapore limited liability partnership;”;
- 15 (k) by deleting the definitions of “Singapore limited liability partnership” and “Singapore society” and substituting the following definitions:
- 20 ““Singapore limited liability partnership” means any limited liability partnership that satisfies the following requirements:
- (a) the limited liability partnership is registered in Singapore under the Limited Liability Partnerships Act 2005 (Act 5 of 2005) and all its partners are citizens;
- 25 (b) if any partner of the limited liability partnership is another limited liability partnership, that other limited liability partnership satisfies the requirements under paragraph (a);
- 30 (c) if that other limited liability partnership referred to in paragraph (b) has a partner which is a limited liability partnership, which in turn has a partner which is also a limited liability partnership and so on, all the partners of each such limited liability partnership consist only of any or any combination of the following:
- 35 (i) citizens; and

(ii) limited liability partnerships that satisfy the requirements of paragraphs (a) and (b); and

(d) if any partner of the limited liability partnership is a company, that company is a Singapore company;

5 “Singapore society” means any society formed or constituted in Singapore and registered or exempted from registration under any written law, all of whose members are citizens and all of whose trustees are either citizens or a trust company licensed under the  
10 Trust Companies Act 2005 (Act 11 of 2005);” and

(l) by deleting paragraphs (a) and (b) of the definition of “society” and substituting the following paragraphs:

“(a) any unincorporated body or association of persons;

(b) any trade union, co-operative society, mutual benefit  
15 organisation or other organisation; or”.

### **Amendment of section 3**

**3.** Section 3 of the principal Act is amended —

(a) by deleting subsections (6) to (9) and substituting the following subsection:

20 “(6) The Controller shall, after receipt of such statement or where no such statement has been received within the time specified, seek the direction of the Minister, and the Minister may issue to the Controller a notice to attach and sell the residential property, and a copy of such notice shall be served  
25 on —

(a) the legal personal representatives to whom probate or letters of administration have been granted in respect of the residential property in question; and

(b) the subsisting mortgagees or chargees (if any) of the  
30 residential property who appear as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.”;

- (b) by deleting the words “subsection (6)” in the 2nd line of subsection (10) and substituting the words “the notice to attach and sell under subsection (6)”;
- (c) by deleting the words “registered land within the meaning of the Land Titles Act” in subsection (13) and substituting the word “land”; and
- (d) by deleting the marginal reference “Cap. 157.” in subsection (13).

#### **Repeal and re-enactment of section 4**

4. Section 4 of the principal Act is repealed and the following section substituted therefor:

##### **“Flats in buildings and condominiums**

4.—(1) Subject to this section, this Act shall not apply to any transfer to or any purchase or acquisition by any foreign person of any estate or interest in any of the following residential properties:

- (a) any flat (including any share in land appurtenant to that flat) that is comprised in any building in a development permitted to be used under the Planning Act (Cap. 232) for residential purposes, and that is not a landed dwelling-house;
- (b) any unit comprised in a development which is shown in an approved plan bearing the title “condominium” and issued by the competent authority under the Planning Act;
- (c) any unit in a development comprising housing accommodation sold under the executive condominium scheme established under the Executive Condominium Housing Scheme Act (Cap. 99A).

(2) Notwithstanding subsection (1) but subject to subsection (7), no foreign person shall, without the prior approval of the Minister, purchase or acquire (whether in a single transaction or a series of transactions) —

- (a) all the flats in every building in a development permitted to be used for residential purposes under the Planning Act;

(b) all the units in a development approved by the competent authority under the Planning Act (Cap. 232) as a condominium development; or

5 (c) all the units in a development sold under the executive condominium scheme established under the Executive Condominium Housing Scheme Act (Cap. 99A).

(3) Any foreign person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

10 (4) Where a foreign person is convicted of an offence under subsection (3) in respect of any development, the Minister may direct the Controller to serve a notice on that person to divest and transfer, within a period of 6 months from the date of service of the notice on that person or within any extension of time granted by the Minister under subsection (5), all his estate or interest in the entire development, or any flat or unit in that development as the Minister may specify to another person who is not —

(a) his nominee; or

20 (b) if the foreign person is a company, a related company within the meaning of the Companies Act (Cap. 50).

(5) The Minister may, on an application being made by a foreign person before the expiration of the period of 6 months from the date of service of the notice referred to in subsection (4), grant such extension of time as the Minister thinks fit for the transfer of his estate or interest in the development or any flat or unit therein.

30 (6) Any foreign person who fails to comply with the Controller's notice referred to in subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day during which the offence continues after conviction.

(7) Nothing in subsection (2) shall prevent a foreign person from acquiring any estate or interest in any development under any agreement, lease or assignment for a term not exceeding 7 years, inclusive of any further term which may be granted by way of an option for renewal.



(8) Without prejudice to subsection (6), where a foreign person on whom a notice under subsection (4) has been served fails to satisfy the Controller that he has divested and transferred his estate or interest in the development concerned or any flat or unit therein within the time limited by subsection (4) or any extension thereof, the Minister may issue to the Controller a notice to attach and sell the estate or interest in the development or any flat or unit therein.

(9) The notice to attach and sell referred to in subsection (8) shall specify the estate or interest in the development or any flat or unit therein to be attached and sold by the Controller, and a copy of that notice shall also be served on —

(a) the foreign person who is the owner of the estate or interest in the development or any flat or unit therein to be attached and sold; and

(b) each subsisting mortgagee or chargee thereof (if any) who appears as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.

(10) In this section —

“approved plan” means a plan approved by the relevant competent authority;

“competent authority” means a competent authority appointed under the Planning Act (Cap. 232);

“landed dwelling-house” means a detached house, a semi-detached house or a terrace house (including a linked house or a townhouse), whether or not comprised within a strata title plan registered under the Land Titles (Strata) Act (Cap. 158);

“unit” includes a flat or dwelling-house.”.

### **Amendment of section 5**

**5.** Section 5 of the principal Act is amended —

(a) by deleting the words “a foreign person is a foreign company which is the owner” in subsection (1) and substituting the words “a foreign company is the owner”;

- (b) by deleting the words “records of the Registrar of Titles or the Registrar of Deeds” in subsection (5) and substituting the words “relevant records in the Land Titles Registry or the Registry of Deeds of the Authority”;
- 5 (c) by deleting the words “records of the Registrar of Titles or the Registrar of Deeds” in the 4th and 5th lines of subsection (6) and substituting the words “relevant records in the Land Titles Registry or the Registry of Deeds of the Authority”; and
- 10 (d) by deleting subsections (7) to (10) and substituting the following subsection:
- “(7) Where a foreign company which is directed under subsection (4) to dispose of its estate or interest in any residential property does not satisfy the Controller that it has transferred its estate or interest within the period or within any extension of time granted under subsection (6), the Minister may issue to the Controller a notice to attach and sell the estate or interest in that property, and a copy of the notice shall be served on —
- (a) the foreign company which is the owner of the estate or interest in the residential property; and
- (b) each subsisting mortgagee or chargee (if any) who appears as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.”.

25 **Repeal and re-enactment of section 6 and new section 6A**

**6.** Section 6 of the principal Act is repealed and the following sections substituted therefor:

**“Attachment and sale of residential property by Controller**

- 30 **6.—(1)** The Controller shall, on receipt of any notice to attach and sell, sell by public auction or otherwise to either a citizen or an approved purchaser the estate or interest in the residential property or land specified in the notice at the following time:
- 35 (a) where any application is made to the Controller within the time limited under section 6A(2) or (3) to fix the reserve price for that estate or interest in the residential property or

land, at any time after the reserve price is fixed in accordance with section 6A; or

- (b) where no such application to fix the reserve price is made, at any time after the expiration of the time period allowed for any application to fix the reserve price under section 6A(3)(b)(ii).

(2) In order to attach and sell any estate or interest in any residential property or land specified in any notice to attach and sell, the Controller shall lodge with the Registrar —

- (a) in the case of any residential property or land which is registered land, an application in the approved form to register the notice to attach and sell that property or land; or
- (b) in the case of any other residential property or land, a copy of the notice to attach and sell relating to that property or land.

(3) The Registrar shall —

- (a) on receipt of the application referred to in subsection (2)(a), register the application in the relevant volume and folio of the land-register in the Land Titles Registry of the Authority and enter the appropriate memorial that the Controller has attached the residential property or land concerned and is empowered to transfer the registered estate or interest in that property or land; or
- (b) on receipt of the copy of the notice to attach and sell referred to in subsection (2)(b), enter a note in the books and other records maintained at the Registry of Deeds of the Authority that the residential property or land concerned has been attached by the Controller.

(4) On lodgment of an application or a copy of the notice to attach and sell in accordance with subsection (2), the Controller shall have the power —

- (a) to sell the estate or interest in the residential property or land described in the application or copy, as the case may be, and all other powers relating or incidental thereto as if the Controller were the proprietor of that estate or interest in the residential property or land; and

(b) to execute any instrument to effect a transfer of that estate or interest in the residential property or land,

and any such transfer executed by the Controller shall be conclusive and shall not be challenged or called in question in any court.

5 (5) The foreign person whose estate or interest in the residential property or land remains the subject of any notice to attach and sell, or its subsisting mortgagee or chargee (if any) shall —

(a) within a period of 21 days after the reserve price for that estate or interest is fixed under section 6A; or

10 (b) if no application to fix the reserve price is made under section 6A, within a period of 21 days beginning on the date immediately following the expiration of the period specified in subsection (1)(b),

15 deliver to the Controller the title deed or certificate of title of the residential property or land, as the case may be, and in default of such delivery, the Controller shall not be obliged to produce to the purchaser of such estate or interest in the residential property or land any other title apart from the certified true copy of the title deed or a replacement certificate of title thereto.

20 (6) Where the Controller is unable to sell any estate or interest in the residential property or land at or above the reserve price fixed under section 6A for that estate or interest, the Controller shall postpone the sale for a period of 2 years, and thereafter shall proceed to sell that estate or interest in the residential property or land, as the case may be, by public auction or otherwise at any price, whether that price is higher or lower than the reserve price.

25 (7) Where the Controller has sold an estate or interest in any residential property or land under this section, the Controller shall without delay apply those proceeds of sale —

30 (a) firstly, in payment of all costs (such as legal costs, survey costs and valuation costs), charges and expenses properly incurred incidentally to or in connection with the sale of the property or land (including any previous unsuccessful sale under this section) between the date of the notice to attach and sell that property or land and the date of the sale (both dates inclusive); and

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(b) secondly, in payment of the balance, in order of priority, to the foreign person who was the owner of the estate or interest in the residential property sold and any person having a prior interest to such owner or representative as shown in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be,

except that where there is any dispute as to the apportionment of these proceeds between the persons referred to in paragraph (b), the Controller shall pay the balance into court.

(8) Nothing in this section shall prevent a foreign person on whom a copy of a notice to attach and sell is served from selling on his own accord his estate or interest in the residential property or land concerned to a citizen or an approved purchaser.

(9) Where a foreign person has sold on his own accord his estate or interest in the residential property or land concerned under subsection (8), the foreign person shall be liable to reimburse the Controller for all legal costs, survey costs, valuation costs and any other costs, charges and expenses incurred by the Controller with a view to a sale (including any previous unsuccessful sale) under this section of the property or land between the date of that notice to attach and sell and the date the Controller is informed by the foreign person that the property or land has been sold by the foreign person (both dates inclusive).

(10) Where the Controller is of the opinion that circumstances have arisen since the lodgment of the application or copy of the notice referred to in subsection (2) which renders the sale of any estate or interest in any residential property or land concerned impracticable, whether on account of an earlier sale by a person permitted under subsection (8) or the occurrence of an event, such as the winding up of a foreign company, the issue of an order of attachment for the same property or land by any court or otherwise, the Controller shall refer the relevant particulars of the residential property or land to the Minister with a statement setting out his reasons as to why it is impracticable to sell the property or land.

(11) The Minister may, on receipt of the Controller's statement under subsection (10), countermand his direction to the Controller to attach and sell the estate or interest in the residential property or land

in question by cancelling his notice to attach and sell that residential property or land.

(12) Where the Minister has, pursuant to subsection (11), countermanded his direction to the Controller to attach and sell any residential property or land, the Registrar shall —

- (a) in the case of any residential property or land which is registered land, cancel the registration of the notice to attach and sell that property or land on receipt from the Controller of an application for that purpose made in the approved form; or
- (b) in the case of any other residential property or land, register a memorial of discharge of the notice to attach and sell that property or land,

and thereafter, the Controller shall not have any power referred to in subsection (4) in relation to any estate or interest in that residential property or land.

(13) In this section and section 6A, any reference to a foreign person includes —

- (a) a reference to a mortgagee or chargee; or
- (b) a reference to the person's legal personal representatives if he is deceased and a notice has been issued by the Minister under section 3(6) in relation to any estate or interest of the foreign person in residential property or land.

### **Reserve price**

**6A.**—(1) Where the Minister has issued a notice to attach and sell an estate or interest in any residential property or land specified in the notice, the following persons may, subject to subsection (3), apply to the Controller to fix a reserve price for that estate or interest in the residential property or land:

- (a) any foreign person who is the owner of that estate or interest in the residential property or land, or his legal personal representatives if he is deceased;
- (b) the mortgagee or chargee of that residential property or land first entitled in priority (referred to in this section as the first mortgagee or chargee); or

(c) any mortgagee or chargee of that residential property or land next or subsequently entitled in priority (referred to in this section as the subsequent mortgagee or chargee).

5 (2) Any application under subsection (1) by a foreign person shall be made no later than 28 days after he receives a copy of the notice to attach and sell.

(3) An application under subsection (1) by a mortgagee or chargee of any residential property or land shall be made as follows:

(a) in the case of the first mortgagee or chargee —

10 (i) if and only if there is no application under subsection (1) by the owner of the same residential property or land, or his legal personal representative if he is deceased; and

15 (ii) no later than 45 days after the expiration of the period limited under subsection (2) for the owner or his legal personal representative to make such an application; or

(b) in the case of a subsequent mortgagee or chargee —

20 (i) if and only if there is no application under subsection (1) by the owner of the same residential property or land, or his legal personal representative if he is deceased, and there is no application under this subsection by the first mortgagee or chargee; and

25 (ii) no later than 45 days after the expiration of the period limited under paragraph (a)(ii) for the first mortgagee or chargee to make such an application.

30 (4) The reserve price for any estate or interest in any residential property or land shall be the mean average of 2 valuations of that property or land, namely, one submitted by a valuer appointed by the Controller and the other by a licensed valuer appointed by the foreign person or the mortgagee or chargee, as the case may be, applying to fix the reserve price.

35 (5) The expenses of any valuation made under this section shall be borne by the foreign person (or by his estate if he is deceased) or the mortgagee or chargee applying to fix a reserve price under subsection (1), as the case may be.”.

### **Amendment of section 7**

7. Section 7 of the principal Act is amended —

- 5 (a) by deleting the words “immovable property” wherever they appear in subsection (1) and substituting in each case the word “land”;
- (b) by deleting the words “statutory declaration” in subsection (1) and substituting the word “declaration”;
- (c) by deleting the word “property” in subsection (1)(b)(i) and (ii) and substituting in each case the word “land”; and
- 10 (d) by deleting the words “statutory declarations” in the marginal note and substituting the word “declarations”.

### **Amendment of section 8**

8. Section 8 of the principal Act is amended —

- 15 (a) by deleting the words “Sections 5 and 6 shall not apply to any foreign person who is a natural person or to any society; such person or society shall not, accordingly, be required” and substituting the words “Section 5 shall not require any foreign person who is a natural person or a society”; and
- 20 (b) by deleting the words “Sections 5 and 6” in the marginal note and substituting the words “Section 5”.

### **Repeal and re-enactment of sections 9 to 14A**

9. Sections 9 to 14A of the principal Act are repealed and the following sections substituted therefor:

#### **“Position of Singapore entities with residential properties wishing to become or becoming converted entities**

25 **9.—**(1) No Singapore company which is the owner of any estate or interest in any residential property that is not non-restricted residential property, whether purchased or acquired before, on or after 11th September 1973 shall, on or after 1st October 1976,  
30 become a converted foreign company without first seeking and obtaining the written approval of the Minister, in the manner provided in section 26, for such conversion and for the retention of all its estate or interest in all or in one or more of those residential



properties which such Singapore company intends should remain vested in the converted foreign company upon such conversion.

5 (2) No Singapore limited liability partnership which is the owner of any estate or interest in any residential property that is not non-restricted residential property, whether purchased or acquired before, on or after 11th April 2005 shall become a converted foreign limited liability partnership without first seeking and obtaining the written approval of the Minister, in the manner provided in section 26, for such conversion and for the retention of all its estate or interest in all  
10 or in one or more of those residential properties which such Singapore limited liability partnership intends should remain vested in the converted foreign limited liability partnership upon such conversion.

15 (3) No Singapore society which is the owner of any estate or interest in any residential property that is not non-restricted residential property purchased or acquired on or after 11th September 1973 shall, on or after 1st October 1976, become a converted society without first seeking and obtaining the written approval of the Minister, in the manner provided in section 26, for such conversion  
20 and for the retention of all its estate or interest in all or in one or more of those residential properties which such Singapore society intends to retain after conversion.

(4) If the written approval sought under subsection (1), (2) or (3) is granted in respect of such conversion and for the retention of all or  
25 one or more of the residential properties in respect of which the Singapore entity sought approval, it shall, either before it becomes a converted entity or within a period of 2 years from the date on which it became a converted entity, transfer to any citizen or approved purchaser all its estate or interest —

30 (a) in such of its residential properties that are not non-restricted residential properties in respect of which it has not been granted approval for retention under section 26; and

(b) in all its other residential properties that are not non-restricted residential properties, if any, in respect of which it  
35 did not seek approval for such retention.

(5) If the written approval sought under subsection (1), (2) or (3) is not granted in respect of such conversion or for the retention of all of

the residential properties in respect of which the Singapore entity sought approval, the Singapore entity shall not become a converted entity.

5 (6) If any Singapore entity becomes a converted entity in contravention of subsection (5) —

- (a) the converted entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000;
- 10 (b) any person who, by virtue of section 36(3), is guilty of that offence shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both; and
- 15 (c) the converted entity shall, within a period of one year from the date on which it became a converted entity, transfer to any citizen or approved purchaser all its estate or interest in every residential property that is not non-restricted residential property owned by it.

(7) If any Singapore entity becomes a converted entity, without first seeking and obtaining the written approval required under subsection (1), (2) or (3) —

- 20 (a) the converted entity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000;
- 25 (b) any person who, by virtue of section 36(3), is guilty of that offence shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both; and
- 30 (c) the converted entity shall, within a period of one year from the date on which it became a converted entity —
  - (i) transfer all its estate or interest in all its residential properties that are not non-restricted residential properties to any citizen or approved purchaser, other than such part of its estate or interest in respect of which it has been granted approval for retention as provided in sub-paragraph (ii); and
  - 35 (ii) seek and obtain the approval of the Minister under section 25 for the retention of such part of its estate or interest in its residential properties that are not non-

restricted residential properties as are not transferred as provided in sub-paragraph (i).

(8) Where —

- 5 (a) a converted foreign company to which subsection (4) applies has not, at the expiration of a period of 2 years from the date on which it became a converted foreign company, transferred to any citizen or approved purchaser all its estate or interest in the residential properties (that are not non-restricted residential properties) still remaining vested in it and in respect of which approval for retention was not sought or, if sought, was not granted under section 25 or 26; or
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- 15 (b) a converted foreign company to which subsection (6) or (7) applies has not, at the expiration of a period of one year from the date on which it became a converted foreign company, transferred to any citizen or approved purchaser all its estate or interest in the residential properties (that are not non-restricted residential properties) still remaining vested in it and in respect of which approval for retention was not sought or, if sought, was not granted under section 25 or 26,
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the Minister may, by a direction in writing, require such converted foreign company to dispose of all its estate or interest in such remaining residential properties by transferring the same to any citizen or approved purchaser within a period of not less than 6 months from the date of service of such direction by the Minister.

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(9) A direction given by the Minister under subsection (8) shall be served on the Controller and on such converted foreign company and its subsisting mortgagees or chargees (if any) who appear as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.

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(10) At the expiration of the period of 6 months mentioned in subsection (8), the Minister may, in his discretion, upon application (with reasons or grounds in support) being made (not later than 30 days of such expiration) by a converted foreign company or any of its mortgagees or chargees who appear as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority,

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as the case may be, grant such extension of time as he may consider fit, for the transfer to any citizen or approved purchaser of all its estate or interest in such residential properties that are not non-restricted residential properties and in respect of which approval was not sought for the retention thereof or, if sought, was not obtained under section 25 or 26.

(11) Where a converted foreign company which is directed under subsection (8) to dispose of its estate or interest in any residential property does not satisfy the Controller that it has transferred the same within the period of 6 months specified in that subsection or any extended period specified in subsection (10), the Minister may issue to the Controller a notice to attach and sell the estate or interest in that property, and a copy of such notice shall be served on the converted foreign company which is the owner of the estate or interest in the residential property and its subsisting mortgagees or chargees (if any) who appear as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.

(12) Subsections (8) to (11) shall apply, with the necessary modifications, to the procedure for the disposal of any estate or interest in residential property owned by a converted foreign limited liability partnership or a converted society as those subsections apply to the procedure for the disposal of any estate or interest in residential property owned by a converted foreign company.

(13) A mortgagee or chargee who, on or after 1st October 1976, grants a loan or advance on a current account for a fixed term exceeding 6 months, secured by a mortgage or charge of any estate or interest in any residential property that is not non-restricted residential property owned by a Singapore entity may, notwithstanding any prior agreement made between the mortgagee or chargee and his respective mortgagor or chargor for the repayment of that loan or advance, call for the earlier repayment of such loan or advance or any part thereof, by giving 3 months' prior notice in writing to his mortgagor or chargor, if such mortgagor or chargor, having represented itself as a Singapore entity, to the mortgagee or chargee at the date of the creation of such mortgage or charge, thereafter, without the written consent of the mortgagee or chargee, becomes a converted entity.

(14) If the repayment of the loan or advance mentioned in subsection (13) is not made on the expiration of the 3 months' notice given by the mortgagee or chargee pursuant to that subsection, such loan or advance shall be deemed to be due, and thereupon the mortgagee or chargee may exercise —

- (a) any power expressly provided in the mortgage or charge;
- (b) any statutory power conferred on a mortgagee or chargee under the Conveyancing and Law of Property Act (Cap. 61), the Land Titles Act (Cap. 157) or any other written law; or
- (c) any power implied by law.

### **Vesting of residential properties in Singapore companies**

**10.**—(1) Notwithstanding anything in any written law, a Singapore company which intends to acquire any estate or interest in any residential property other than non-restricted residential property shall, prior to the vesting of the estate or interest in that property in the company, furnish the Controller with a list of its directors and members containing the particulars of their nationality and such other particulars as the Controller may require.

(2) The Controller may, if he is satisfied that the requirements of subsection (1) are complied with and that the company is a Singapore company, issue to the company a certificate stating that the company may acquire and retain residential properties subject to the provisions of this Act.

(3) The Controller may at any time require a Singapore company which has been issued a certificate under subsection (2) to produce its register of members and directors for his inspection if the Controller desires to ascertain whether the Singapore company has ceased to be a Singapore company.

(4) The Controller may at any time cancel a certificate issued under subsection (2) if he is satisfied that —

- (a) in the case of a Singapore company which does not own any residential property that is not non-restricted residential property, the Singapore company has become a foreign company without obtaining the prior written approval of the Controller under section 14; or

(b) in the case of a Singapore company which owns any residential property that is not non-restricted residential property, the Singapore company has become a converted foreign company without obtaining the prior written approval of the Minister under section 26.

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(5) The Controller shall, upon the application by any Singapore company which is a holder of a certificate issued by the Controller under subsection (2), cancel the certificate if the Controller is satisfied that the Singapore company does not own any residential property that is not non-restricted residential property.

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(6) Any Singapore company which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

### **Vesting of residential properties in Singapore limited liability partnerships**

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**11.**—(1) Notwithstanding anything in any written law, a Singapore limited liability partnership which intends to acquire any estate or interest in any residential property other than non-restricted residential property shall, prior to the vesting of the estate or interest in that property in the limited liability partnership, furnish the Controller with a list of its partners containing the particulars of their nationality and such other particulars as the Controller may require.

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(2) The Controller may, if he is satisfied that the requirements of subsection (1) are complied with and that the limited liability partnership is a Singapore limited liability partnership, issue to the limited liability partnership a certificate stating that the limited liability partnership may acquire and retain residential properties subject to the provisions of this Act.

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(3) The Controller may at any time require a Singapore limited liability partnership which has been issued a certificate under subsection (2) to produce its register of partners for his inspection if the Controller desires to ascertain whether the Singapore limited liability partnership has ceased to be a Singapore limited liability partnership.

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(4) The Controller may at any time cancel a certificate issued under subsection (2) if he is satisfied that —

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- 5 (a) in the case of a Singapore limited liability partnership which does not own any residential property that is not non-restricted residential property, the Singapore limited liability partnership has become a foreign limited liability partnership without obtaining the prior written approval of the Controller under section 14A; or
- 10 (b) in the case of a Singapore limited liability partnership which owns any residential property that is not non-restricted residential property, the Singapore limited liability partnership has become a converted foreign limited liability partnership without obtaining the prior written approval of the Minister under section 26.

15 (5) The Controller shall, upon the application by any Singapore limited liability partnership which is a holder of a certificate issued by the Controller under subsection (2), cancel the certificate if the Controller is satisfied that the Singapore limited liability partnership does not own any residential property that is not non-restricted residential property.

20 (6) Any Singapore limited liability partnership which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

**Registrar may refuse to register instrument of transfer in favour of Singapore company**

25 **12.** The Registrar may refuse to register an instrument of transfer of an estate or interest in any residential property that is not non-restricted residential property in favour of a Singapore company unless he is satisfied that —

- (a) all the directors of the company are citizens; and
- 30 (b) all the members of the company are either citizens, Singapore limited liability partnerships or Singapore companies.

**Registrar may refuse to register instrument of transfer in favour of Singapore limited liability partnership**

35 **13.** The Registrar may refuse to register an instrument of transfer of an estate or interest in any residential property that is not non-

restricted residential property in favour of a Singapore limited liability partnership unless he is satisfied that all the partners of the limited liability partnership are either citizens, Singapore limited liability partnerships or Singapore companies.

5 **Singapore company becoming foreign company**

**14.**—(1) Notwithstanding anything in any written law, a Singapore company shall not become a foreign company unless —

- 10 (a) in the case of a Singapore company which owns any residential property that is not non-restricted residential property, it has obtained the prior approval of the Minister to become a converted foreign company pursuant to section 26; or
- 15 (b) in the case of a Singapore company which claims that it does not own any residential property apart from non-restricted residential property, it has obtained the prior approval of the Controller under subsection (2) to become a foreign company.

20 (2) For the purposes of subsection (1)(b), the Controller shall grant the approval for the Singapore company to become a foreign company if he is satisfied that the Singapore company does not own any residential property apart from non-restricted residential property.

(3) Upon a Singapore company being granted an approval under subsection (1)(a) or (b), the Controller shall cancel the certificate issued to the Singapore company under section 10(2).

25 (4) Notwithstanding any approval given by the Minister or the Controller for the purposes of subsection (1)(a) or (b), as the case may be, the Controller may —

- 30 (a) if he subsequently discovers that the company owns any residential property in respect of which the Minister has not granted any approval under section 25 or 26 for the company to purchase, acquire or retain the property and the property is not non-restricted residential property; or



(b) if he subsequently discovers that the company had made a misrepresentation to the Controller,

obtain the Minister's direction to require the company to dispose of the residential property.

5 (5) Where any residential property is to be disposed of pursuant to the Minister's direction obtained under subsection (4), section 9(8) to (14) shall apply, with the necessary modifications, to the manner of disposal of the residential property and the rights of a mortgagee or chargee (if any) of the residential property.

10 **Singapore limited liability partnership becoming foreign limited liability partnership**

**14A.**—(1) Notwithstanding anything in any written law, a Singapore limited liability partnership shall not become a foreign limited liability partnership unless —

15 (a) in the case of a Singapore limited liability partnership which owns any residential property that is not non-restricted residential property, it has obtained the prior approval of the Minister to become a converted foreign limited liability partnership pursuant to section 26; or

20 (b) in the case of a Singapore limited liability partnership which claims that it does not own any residential property apart from non-restricted residential property, it has obtained the prior approval of the Controller under subsection (2) to become a foreign limited liability partnership.

25 (2) For the purposes of subsection (1)(b), the Controller shall grant the approval for the Singapore limited liability partnership to become a foreign limited liability partnership if he is satisfied that the Singapore limited liability partnership does not own any residential property apart from non-restricted residential property.

30 (3) Upon a Singapore limited liability partnership being granted an approval under subsection (1)(a) or (b), the Controller shall cancel the certificate issued to the Singapore limited liability partnership under section 11(2).

35 (4) Notwithstanding any approval given by the Minister or the Controller for the purposes of subsection (1)(a) or (b), as the case may be, the Controller may —

5 (a) if he subsequently discovers that the limited liability partnership owns any residential property in respect of which the Minister has not granted any approval under section 25 or 26 for the limited liability partnership to purchase, acquire or retain the property and the property is not non-restricted residential property; or

(b) if he subsequently discovers that the limited liability partnership had made a misrepresentation to the Controller, obtain the Minister's direction to require the limited liability partnership to dispose of the residential property.

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(5) Where any residential property is to be disposed of pursuant to the Minister's direction obtained under subsection (4), section 9(8) to (14) shall apply, with the necessary modifications, to the manner of disposal of the residential property and the rights of a mortgagee or chargee (if any) of the residential property.”.

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#### **Amendment of section 14B**

**10.** Section 14B of the principal Act is amended —

- (a) by deleting the words “section 10A(2)” in subsection (1) and substituting the words “section 11(2)”; and
- 20 (b) by deleting the words “by a Singapore limited liability partnership” in subsection (3) and substituting the words “and that limited liability partnership is a Singapore limited liability partnership”.

#### **Amendment of section 14C**

25 **11.** Section 14C(1) of the principal Act is amended by inserting, immediately after the words “acquire or retain residential property”, the words “that is not non-restricted residential property”.

#### **Repeal of sections 15 to 18 and re-enactment of sections 16, 17 and 18**

**12.** Sections 15 to 18 of the principal Act are repealed and the following sections substituted therefor:

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**“Vesting of residential properties in Singapore societies**

5       **16.**—(1) Notwithstanding anything in any written law, a Singapore society which intends to acquire any estate or interest in any residential property other than non-restricted residential property shall, prior to the vesting of the estate or interest in that property in the trustees of the society, furnish the Controller with a list of its trustees and members containing the particulars of their nationality and such other particulars as the Controller may require.

10       (2) The Controller may, if he is satisfied that the requirements of subsection (1) are complied with and that the society is a Singapore society, issue to the society a certificate stating that the society may acquire and retain residential properties in accordance with the provisions of this Act.

15       (3) The Controller may at any time require a Singapore society which has been issued a certificate under subsection (2) to produce its list of members and trustees for his inspection if the Controller desires to ascertain whether the Singapore society has ceased to be a Singapore society.

20       (4) The Controller may at any time cancel a certificate issued under subsection (2) if he is satisfied that —

25       (a) in the case of a Singapore society which does not own any residential property that is not non-restricted residential property, the Singapore society has become a foreign society without obtaining the prior written approval of the Controller under section 17; or

30       (b) in the case of a Singapore society which owns any residential property that is not non-restricted residential property, the Singapore society has become a converted society without obtaining the prior written approval of the Minister under section 26.

35       (5) The Controller shall, upon the application by any Singapore society which is a holder of a certificate issued by the Controller under subsection (2), cancel the certificate if the Controller is satisfied that the Singapore society does not own any residential property that is not non-restricted residential property.

(6) Any Singapore society which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

### **Singapore society becoming foreign society**

5 **17.**—(1) Notwithstanding anything in any written law, a Singapore society shall not become a foreign society unless —

(a) in the case of a Singapore society which owns any residential property that is not non-restricted residential property, it has obtained the prior approval of the Minister to  
10 become a converted society pursuant to section 26; or

(b) in the case of a Singapore society which claims that it does not own any residential property apart from non-restricted residential property, it has obtained the prior approval of the Controller under subsection (2) to become a foreign society.

15 (2) For the purposes of subsection (1)(b), the Controller shall grant the approval for the Singapore society to become a foreign society if he is satisfied that the Singapore society does not own any residential property apart from non-restricted residential property.

20 (3) Upon a Singapore society being granted an approval under subsection (1)(a) or (b), the Controller shall cancel the certificate issued to the Singapore society under section 16(2).

(4) Notwithstanding any approval given by the Minister or the Controller for the purposes of subsection (1)(a) or (b), as the case may be, the Controller may —

25 (a) if he subsequently discovers that the society owns any residential property in respect of which the Minister has not granted any approval under section 25 or 26 for the society to purchase, acquire or retain the property and the property is not non-restricted residential property; or

30 (b) if he subsequently discovers that the society had made a misrepresentation to the Controller,

obtain the Minister's direction to require the society to dispose of the residential property.

35 (5) Where any residential property is to be disposed of pursuant to the Minister's direction obtained under subsection (4), section 9(8) to

(14) shall apply, with the necessary modifications, to the manner of disposal of the residential property and the rights of a mortgagee or chargee (if any) of the residential property.

**Registrar may refuse to register instrument of transfer in favour of Singapore society**

**18.** The Registrar may refuse to register an instrument of transfer of any estate or interest in any residential property that is not non-restricted residential property in favour of a Singapore society unless he is satisfied that —

- (a) all the members of the society are citizens; and
- (b) the trustees of the society are either citizens or a trust company licensed under the Trust Companies Act 2005 (Act 11 of 2005).”.

**Amendment of section 21**

**13.** Section 21(1) of the principal Act is amended —

- (a) by inserting, immediately after the words “residential property” in the 1st and 2nd lines, the words “that is not non-restricted residential property”; and
- (b) by deleting the words “the residential property” in the penultimate line and substituting the words “that property”.

**Amendment of section 22**

**14.** Section 22 of the principal Act is amended —

- (a) by inserting, immediately after the words “residential property” in subsections (1) and (2), the words “that is not non-restricted residential property”; and
- (b) by deleting subsection (3) and substituting the following subsection:

“(3) Where such mortgagee does not sell the estate or interest in the residential property that is not non-restricted residential property within the period specified in subsection (2) (including any extension thereof), the Minister may issue to the Controller a notice to attach and sell the mortgagee’s estate or interest in that residential property.”.

### **Amendment of section 23**

**15.** Section 23 of the principal Act is amended —

(a) by inserting, immediately after the words “residential property” in subsection (1)(a) and (b), the words “that is not non-restricted residential property”; and

(b) by inserting, immediately after subsection (3), the following subsections:

“(4) Any person who contravenes subsection (1)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

(5) The court shall, in respect of any defendant charged with committing any offence under subsection (1)(a) or (b) —

(a) take into account any confiscation order made under section 23A before imposing any fine on the defendant; and

(b) subject to paragraph (a), leave the confiscation order out of account in determining the appropriate sentence or other manner of dealing with the defendant.”.

### **New section 23A**

**16.** The principal Act is amended by inserting, immediately after section 23, the following section:

#### **“Confiscation of benefits of offence under section 23**

**23A.**—(1) Where a defendant is convicted of any offence under section 23(1)(a) or (b), the court shall, on the application of the Public Prosecutor, make a confiscation order against the defendant in respect of benefits derived by him from the commission of the offence if the court is satisfied that such benefits have been so derived.

(2) Where the court is satisfied that benefits have been derived by the defendant from the commission of any offence under section 23(1)(a) or (b), the court shall, before sentencing or otherwise dealing with him in respect of the offence concerned, determine in

accordance with subsections (4) to (8) the amount to be recovered in his case by virtue of this section.

(3) Subject to subsection (7), the benefits derived by a defendant from the commission of any offence under section 23(1)(a) or (b) shall be —

(a) any estate or interest (including any income accruing from such estate or interest) in residential property held in trust by or for the benefit of the defendant in contravention of section 23(1)(a) or (b); or

(b) where that estate or interest in residential property is disposed of before conviction, the money, or the market value of any property other than money, paid to or received by the defendant, or another person at the request or direction of the defendant, on account of the disposal of the estate or interest in the residential property.

(4) The amount to be recovered from the defendant under a confiscation order under this section shall be the amount the court assesses to be the value of the benefits derived by the defendant from the commission of any offence under section 23(1)(a) or (b).

(5) For the purposes of this section —

(a) the value of the benefits derived by a defendant from the commission of any such offence shall be the aggregate of the properties, estates and interests referred to in subsection (3)(a) or (b), as the case may be, relating to that defendant;

(b) the value of the estate or interest in residential property referred to in subsection (3)(a) shall be the market value of the estate or interest at the date of conviction or the date of the commission of the offence, whichever is the higher; and

(c) in calculating the value of benefits derived by a defendant from the commission of any offence under section 23(1)(a) or (b), any expenses or outgoings of the defendant in connection with the commission of the offence shall be disregarded.

(6) Any question of fact to be decided by a court in proceedings under this section shall be decided on a balance of probabilities.

(7) A benefit derived by a defendant convicted of any offence under section 23(1)(a) or (b) shall not be taken into account if —

- 5 (a) a confiscation order against the defendant has been imposed in respect of that benefit under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);
- 10 (b) a confiscation order against the defendant has previously been made under this section and that benefit is shown to the court to have been taken into account in determining the amount to be recovered under that order; or
- 15 (c) a confiscation order against another defendant has previously been made under this section in relation to an offence committed in the same transaction as the offence by the first-mentioned defendant and that benefit, being an estate or interest referred to in subsection (3)(a), is shown to the court to have been taken into account in determining the amount to be recovered under the order against that other defendant.

20 (8) Any relevant evidence admitted in the proceedings against the defendant for any offence under section 23(1)(a) or (b) shall, if the court thinks fit, be taken into account in determining the amount to be recovered under subsection (2).

(9) Subject to subsection (1), where a court orders the defendant to pay any amount under a confiscation order —

- 25 (a) section 224 of the Criminal Procedure Code (Cap. 68) shall have effect as if that amount were a fine imposed on him by the court; and
- 30 (b) for the purposes of section 224(b)(iv) of the Criminal Procedure Code, the term for which the court may direct the defendant to be imprisoned in default of payment of any amount under the confiscation order shall be as follows:
  - (i) if the amount does not exceed \$2 million — imprisonment for a term not exceeding 5 years; and
  - 35 (ii) if the amount exceeds \$2 million — imprisonment for a term not exceeding 10 years.



(10) Where —

(a) a warrant to commit the defendant to prison is issued for a default in payment of an amount ordered to be paid under a confiscation order in respect of an offence under section 23(1)(a) or (b); and

(b) at the time the warrant is issued, the defendant is liable to serve any term of imprisonment in respect of the offence,

the term of imprisonment to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b).

(11) This section shall not apply in respect of any offence committed before the date of commencement of section 16 of the Residential Property (Amendment) Act 2006.”.

#### **Amendment of section 24**

**17.** Section 24(2) of the principal Act is amended by deleting the words “Registry of Deeds” in paragraph (b) and substituting the words “Registry of Deeds of the Authority”.

#### **Amendment of section 25**

**18.** Section 25 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsection:

“(2) Subject to subsection (14), any foreign person who desires to purchase, acquire or retain any estate or interest in any residential property other than non-restricted residential property shall apply to the Minister through the Controller for the grant of the Minister’s approval to acquire or to retain residential property, as the case may be.”;

(b) by inserting, immediately after the words “application shall” in subsection (3), the words “be in such form and shall”;

(c) by deleting subsection (7) and substituting the following subsections:

“(7) The conditions that the Minister may impose under subsection (4), (5) or (6) shall include all or any of the following:

(a) that the applicant —

(i) being a natural person, shall use the residential property for his own occupation and that of his family as a dwelling-house and not for any other purpose; or

(ii) being a foreign company or a foreign limited liability partnership, shall use the residential property for occupation as a dwelling-house by its executives, managers, partners, employees or other personnel and their families and not for any other purpose;

(b) that the applicant shall provide such security as may be determined by the Minister for the purposes of complying with any condition imposed by the Minister;

(c) that the applicant shall give an undertaking in writing to comply with the conditions imposed by the Minister.

(7A) Where an applicant has failed to comply with any of the conditions imposed by the Minister under this section, the Minister may forfeit the security provided by the applicant under this section after giving 21 days' notice in writing to the applicant of his intention to forfeit the security and the grounds thereof.

(7B) An applicant may, upon receipt of the notice under subsection (7A), appeal to the Minister within 3 months of such notice.

(7C) The decision of the Minister on any appeal made under subsection (7B) shall be final and shall not be called in question in any court.”; and

(d) by deleting the words “statutory declaration” wherever they appear in subsection (9)(a) and (b) and substituting in each case the word “declaration”.

### **Amendment of section 26**

19. Section 26 of the principal Act is amended —

- (a) by inserting, immediately after the words “residential properties” in subsection (1), the words “, not being non-restricted residential properties,”;
- 5 (b) by inserting, immediately after the words “residential properties” in subsection (4), the words “that are not non-restricted residential properties”; and
- (c) by inserting, immediately after the words “interest in” in subsection (5), the word “such”.

### **Amendment of section 27**

10 **20.** Section 27 of the principal Act is amended —

- (a) by deleting the words “or 26” in subsection (1)(a) and substituting the words “, 26 or 31”;
- (b) by inserting, immediately after the words “residential property” in subsection (1)(a), the words “that is not non-restricted residential property”;
- 15 (c) by deleting the word “or” at the end of subsection (1)(b);
- (d) by deleting paragraph (c) of subsection (1) and substituting the following paragraphs:
  - 20 “(c) granted his approval under section 28 to any foreign person for a change of use of any land owned by that foreign person; or
  - “(d) granted his approval under section 28A to any foreign person for the development of any land,”;
- (e) by deleting the words “records of the Registrar of Titles or the Registrar of Deeds” in subsection (2) and substituting the words “relevant records in the Land Titles Registry or the Registry of Deeds of the Authority”;
- 25 (f) by deleting subsection (3) and substituting the following subsection:

30 “(3) Where a person who has been directed under subsection (1) to dispose of his estate or interest in any residential property or land fails to satisfy the Controller that he has transferred his estate or interest within the period specified in subsection (1) or within any further period extended by the

Minister, the Minister may issue to the Controller a notice to attach and sell the estate or interest in that residential property or land, and a copy of that notice shall be served on —

(a) the owner of the residential property or land; and

5 (b) each subsisting mortgagee or chargee (if any) who appears as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.”; and

(g) by deleting subsection (4).

## 10 **Amendment of section 28**

**21.** Section 28 of the principal Act is amended —

(a) by deleting the words “immovable property” wherever they appear and substituting in each case the word “land”; and

15 (b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) The Minister may, when granting any approval under subsection (1), impose such conditions as he thinks fit, including all or any of the following:

20 (a) that the applicant shall provide such security as may be determined by the Minister for the purposes of complying with any condition imposed by the Minister;

25 (b) that the applicant shall give an undertaking in writing to comply with the conditions imposed by the Minister.

30 (3) Where an applicant has failed to comply with any of the conditions imposed by the Minister under this section, the Minister may forfeit the security provided by the applicant under this section after giving 21 days’ notice in writing to the applicant of his intention to forfeit the security and the grounds thereof.

(4) An applicant may, upon receipt of the notice under subsection (3), appeal to the Minister within 3 months of such notice.

(5) The decision of the Minister on any appeal made under subsection (4) shall be final and shall not be called in question in any court.”.

#### **Amendment of section 28A**

5     **22.** Section 28A(1) of the principal Act is amended by deleting the words “Controller of Housing” in paragraph (i) and substituting the word “Controller”.

#### **Amendment of section 29**

10     **23.** Section 29(4) of the principal Act is amended by deleting the words “Controller of Housing, the”.

#### **Amendment of section 30**

**24.** Section 30 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

15             “(1) Any government of a foreign State or territory outside Singapore or any accredited agent of that government or any religious group in Singapore which intends to purchase or acquire any estate or interest in any residential property which is not non-restricted residential property for any diplomatic,  
20             consular or official purpose of that government or for the purposes of an official residence for any accredited agent of that government or, in the case of a religious group, for its use shall not be bound by the procedures laid down in section 25 but shall first seek the permission in writing of the Minister for  
25             such purchase or acquisition.”; and

(b) by inserting, immediately after subsection (2), the following subsection:

30             “(3) The requirement under subsection (1) for the permission in writing of the Minister shall not apply to the purchase or acquisition (whether by lease, deed of assignment or other agreement) of a leasehold estate or interest for a term not exceeding 7 years, inclusive of any further term which may be granted by way of an option for renewal.”.

### **Repeal and re-enactment of section 31**

**25.** Section 31 of the principal Act is repealed and the following section substituted therefor:

#### **“Housing developers**

5       **31.**—(1) Except as provided in subsection (4), section 25 shall not apply to housing developers.

(2) A housing developer shall, before he purchases or acquires an estate or interest in any residential property, apply to the Controller for approval to purchase or acquire the residential property.

10       (3) Upon receipt of an application under subsection (2), the Controller may, with the approval of the Minister, grant approval subject to such terms and conditions as the Controller may think fit, including all or any of the following:

15           (a) that the housing developer shall carry out and complete the development of the residential property and shall not sell, assign, transfer, sublease or otherwise dispose of the residential property or any part thereof in its vacant or undeveloped state without the prior approval of the Controller which may be granted with or without conditions;

20           (b) that where the housing developer is a company, a limited liability partnership or a society, no person who holds any shares in the company or who is a partner in the limited liability partnership or member of the society shall, without the approval of the Controller (which may be granted with or without conditions), sell, assign, transfer or otherwise dispose of any of his shares or any interest in such shares to any other person, or resign as such partner or member, as the case may be;

25           (c) that the housing developer shall provide such security as may be determined by the Controller for the purpose of developing that residential property, and that such security may be forfeited if the housing developer —

30                   (i) does not proceed with or complete the development within such period as may be determined by the Controller;

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- 5 (ii) does not sell all the flats or dwelling-houses in the development, or where the development comprises one or more buildings which have not been subdivided into units for sale, does not sell the whole development, to citizens or approved purchasers within a period of 2 years from the date of the issue by the relevant authority of a Temporary Occupation Permit or Certificate of Statutory Completion, whichever is the earlier, in respect of such flats, dwelling-houses or any of the buildings; or
- 10 (iii) does not comply with any other terms and conditions which the Controller may impose under this section;
- 15 (d) that the applicant shall undertake, in writing, to comply with the conditions imposed by the Controller after the applicant has become the registered owner of that residential property under a transfer registered with the Registrar.
- 20 (4) Where a housing developer desires to retain one or more flats or dwelling-houses in the development after having completed the development, he may apply for such retention in the manner provided in section 25.
- (5) The Controller may extend any period referred to in subsection (3)(c) and may, in his discretion, dispense with the requirement to provide security referred to in that subsection.
- 25 (6) Where a housing developer fails to comply with any of the conditions referred to in subsection (3)(c) within the period determined by the Controller or any extension thereof, the Controller may forfeit the security provided by the housing developer under that subsection after giving 21 days' notice in writing to the housing developer of his intention to forfeit the security and the grounds therefor.
- 30 (7) Where a housing developer fails to comply with any condition referred to in subsection (3)(a) or (b), the Controller may, by notice in writing, require the housing developer to pay, within a specified period, a financial penalty of such amount (as the Controller thinks fit) not exceeding 50% of the purchase price of the residential property paid by the housing developer in its purchase or acquisition of the residential property.
- 35

(8) The quantum of the financial penalty referred to in subsection (7) shall take into account any security provided by the housing developer under subsection (3)(c) and which has been forfeited under subsection (6).

5 (9) Where a housing developer is a company, a limited liability partnership or a society and the failure of the housing developer to comply with any condition referred to in subsection (3)(a) or (b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any person who is a  
10 director of the company, a partner of the limited liability partnership or a member of the governing body or board of trustees of the society, as the case may be, that person shall be jointly and severally liable with the company, limited liability partnership or society to the financial penalty imposed under subsection (7).

15 (10) Any financial penalty payable by any housing developer or any person under subsection (7) or (9) shall be recoverable by the Controller as a debt due to the Controller from that housing developer or person.

20 (11) The housing developer may, upon receipt of the notice under subsection (6) or (7) or upon being informed in writing by the Controller that he will not extend the period determined under subsection (3)(c), appeal to the Minister within 3 months of the receipt of such notice or information.

25 (12) The decision of the Minister on any appeal made under subsection (11) shall be final and shall not be called in question in any court.

(13) Upon approval being granted by the Controller to the housing developer to purchase or acquire any estate or interest in a residential property, the Controller shall inform the Registrar.

30 (14) The Registrar may, before registering any instrument of transfer in respect of any residential property made in favour of a housing developer, require a statutory declaration from that housing developer to be endorsed on the instrument of transfer in such form as he may require.

35 (15) The Registrar may refuse to accept or to register the instrument of transfer referred to in subsection (14) unless the statutory



declaration made by that housing developer has been endorsed on the instrument of transfer.

(16) The Registrar shall, after registering the instrument of transfer referred to in subsection (14), enter a notice on the relevant volume and folio of the land-register in the Land Titles Registry of the Authority or in the books or other records maintained at the Registry of Deeds of the Authority, as the case may be, warning persons dealing with the registered proprietor therein named that the registered proprietor is prohibited from selling, assigning, transferring, subleasing or otherwise disposing of the land comprised therein in its vacant or undeveloped state.

(17) The Registrar shall cancel the notice referred to in subsection (16) upon receipt of satisfactory evidence from the registered proprietor that the Temporary Occupation Permit or the Certificate of Statutory Completion for the whole of the development has been issued by the relevant authority, and no claim shall be made by any person against the Registrar for any loss or damage suffered if the notice referred to in subsection (16) is not entered on the land-register in the Land Titles Registry of the Authority or in the books or other records maintained at the Registry of Deeds of the Authority, as the case may be, or is cancelled pursuant to this subsection.

(18) In this section, “housing developer” means any person, being —

- (a) an individual who is not a citizen;
- (b) a foreign company, a converted foreign company, a foreign limited liability partnership, a converted foreign limited liability partnership, a foreign society or a converted society;
- (c) a Singapore company which has not complied with section 10(1);
- (d) a Singapore limited liability partnership which has not complied with section 11(1); or
- (e) a Singapore society which has not complied with section 16(1),

who or which constructs or intends to construct flats or dwelling-houses for sale, whether or not such person, company, limited liability partnership or society is licensed or required to be licensed as

a housing developer under the Housing Developers (Control and Licensing) Act (Cap. 130).”.

### **Amendment of section 32**

5 **26.** Section 32 of the principal Act is amended by deleting subsections (2) and (2A) and substituting the following subsections:

10 “(2) Where the Minister revokes any regulation or notification made under this section (whether made before, on or after the date of commencement of section 26 of the Residential Property (Amendment) Act 2006), he may give directions in writing to any person affected by the revocation, being an owner of residential property that is not non-restricted residential property, to transfer all his or its estate or interest in all or any of such residential property to any citizen or approved purchaser within such period as the Minister may specify.

15 (2A) Where the person directed under subsection (2) does not satisfy the Minister that he has complied with the direction within the time specified in the direction or any extension thereof allowed by the Minister, the Minister may issue to the Controller a notice to attach and sell the estate or interest in the residential property.

20 (2B) The notice to attach and sell referred to in subsection (2A) shall specify the residential property to be attached and sold by the Controller, and a copy of that notice shall also be served on —

- (a) the foreign person who is the owner of the estate or interest in the residential property to be attached and sold; and
- 25 (b) each subsisting mortgagee or chargee (if any) who appears as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.”.

### **Amendment of section 33**

**27.** Section 33 of the principal Act is amended —

30 (a) by inserting, immediately after paragraph (c), the following paragraphs:

“(ca) affect any transfer of any estate or interest in any residential property to a foreign company (which is also a trust company licensed under the Trust

Companies Act 2005 (Act 11 of 2005)) to hold on trust for a citizen or an approved purchaser;

(*cb*) affect any transfer of any estate or interest in any residential property to the Official Assignee;”;

5 (b) by inserting, immediately after the words “Urban Redevelopment Authority Act” in paragraph (*e*), the words “or from any other person or body that is duly appointed as an agent of the Government in the sale of any estate or interest in any residential property”; and

10 (c) by deleting paragraphs (*f*) to (*i*) and substituting the following paragraphs:

“(f) prohibit the purchase or acquisition by any foreign person of an estate or interest in any residential property directly from —

15 (i) the Housing and Development Board under Part IV of the Housing and Development Act (Cap. 129) before or after 1st October 1982; or

(ii) an approved developer under Part IVB of the Housing and Development Act;

20 (g) prevent the transfer to any foreign person of an estate or interest in any residential property sold under Part IV or IVB of the Housing and Development Act or Part IV of the Jurong Town Corporation Act (Cap. 150) in any case where —

25 (i) the prior written consent of the Housing and Development Board or the Jurong Town Corporation, as the case may be, has been obtained; and

30 (ii) no instrument has been registered in respect of that property under section 126 of the Land Titles (Strata) Act (Cap. 158) (whether alone or read with section 126A of that Act, as the case may be); or

35 (*h*) apply to any direct purchase or acquisition on or after 11th September 1973 by any foreign person from the Government of any estate or interest in any residential

property other than by a re-grant of State title on or after that date to a foreign company upon the surrender of any estate or interest in residential property existing before that date.”.

5 **Amendment of section 34**

**28.** Section 34 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) If any dispute should arise or should a ruling be required as to whether —

- 10 (a) any property is a residential property within the meaning of this Act;
- (b) any flat is a landed dwelling-house as defined in section 4(10); or
- 15 (c) 2 or more structures in an approved development constitute one building or 2 or more separate buildings for the purposes of this Act,

a direction issued by the Minister to the effect —

- (i) that such property is or is not a residential property;
- 20 (ii) that such a flat is or is not landed dwelling-house as defined in section 4(10); or
- (iii) that the structures in an approved development constitute one building or 2 or more buildings,

as the case may be, shall be conclusive evidence for all purposes.”.

**Amendment of section 35**

25 **29.** Section 35 of the principal Act is amended —

- (a) by deleting the words “pursuant to section 25 or 26” in paragraph (a) and substituting the words “that is not non-restricted residential property pursuant to section 25, 26 or 31”; and
- 30 (b) by deleting paragraph (b) and substituting the following paragraphs:

“(b) his approval for a change of use of any land pursuant to section 28;

(*ba*) his approval for development of any land pursuant to section 28A; or”.

**Amendment of section 36A**

5 **30.** Section 36A(1) of the principal Act is amended by deleting “\$200” and substituting “\$2,000”.

**New section 36B**

**31.** The principal Act is amended by inserting, immediately after section 36A, the following section:

**“Jurisdiction of court**

10 **36B.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.”.

**Repeal and re-enactment of section 38**

15 **32.** Section 38 of the principal Act is repealed and the following section substituted therefor:

**“Service of notices, etc.**

20 **38.—(1)** Any notice or direction or a copy thereof required or authorised by this Act to be served on any person, and any summons issued by a court against any person in connection with any offence under this Act may be served on the person —

25 (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence or the residential property described in such notice, direction or summons;

(b) by leaving it in an envelope addressed to the person at his usual or last known place of residence or business or the residential property described in such notice, direction or summons;

30 (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business or the

residential property described in such notice, direction or summons; or

(d) in the case of a body corporate or an unincorporated body —

5 (i) by leaving it in an envelope addressed to the body corporate or unincorporated body at its registered office, principal place of business, last known place of business in Singapore or the residential property described in such notice, direction or summons; or

10 (ii) by sending it by registered post addressed to the body corporate or unincorporated body at its registered office, principal place of business, last known place of business in Singapore or the residential property described in such notice, direction or summons.

15 (2) Any notice or direction or a copy thereof or any summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person 2 days after the day the notice or direction or a copy thereof or the summons was posted, notwithstanding that it is returned undelivered.

20 (3) In proving the service of any notice or direction or a copy thereof or any summons effected under this section by registered post, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.”.

#### **Amendment of section 40**

25 **33.** Section 40(1) of the principal Act is amended by deleting the word “Minister” wherever it appears and substituting in each case the words “Authority, with the approval of the Minister,”.

#### **Consequential amendment to Companies Act**

30 **34.** Section 34 of the Companies Act (Cap. 50) is repealed and the following section substituted therefor:

#### **“Alteration of memorandum by company pursuant to repeal and re-enactment of sections 10 and 14 of Residential Property Act**

**34.—(1)** Where the memorandum of a company contains any of the provisions referred to in section 10(1) of the Residential Property Act

(Cap. 274) in force immediately before the date of commencement of section 9 of the Residential Property (Amendment) Act 2006, the company may, by special resolution, amend its memorandum to remove that provision.

5 (2) Where the memorandum of a company contains a provision to the effect that its memorandum or articles of association shall not be altered to remove any of the provisions referred to in section 10(1) of the Residential Property Act in force immediately before the date of  
10 commencement of section 9 of the Residential Property (Amendment) Act 2006 except in accordance with the requirements of that Act —

(a) that provision shall cease to have effect as from that date;  
and

(b) the company may, by special resolution, amend its  
15 memorandum to remove that provision.”.

### **Consequential amendment to Singapore Land Authority Act**

**35.** The Third Schedule to the Singapore Land Authority Act (Cap. 301) is amended by deleting item 5 and substituting the following item:

20 “5. Sections 4, 9, 10, 11, 16, 23, 25, 35 and 36 of the Residential Property Act (Cap. 274).”.

### **Savings**

**36.**—(1) Every subsisting qualifying certificate issued by the Controller of Housing under section 31 of the principal Act in force immediately before the appointed day shall continue as if the certificate was the  
25 approval of the Controller of Residential Property granted under that section in force as from that date.

(2) Where any security has been provided by a housing developer to the Controller of Housing under the terms and conditions of a qualifying certificate issued by the Controller of Housing under section 31 of the  
30 principal Act in force immediately before the appointed day, such security shall, as from that date, be deemed, without further assurance, to have been a security provided by the housing developer to the Controller of Residential Property under the terms and conditions of an approval granted by the Controller of Residential Property under that section in  
35 force as from that date, and may be enforced by the Controller of

Residential Property, as if the Controller of Residential Property were named in the instrument of the security instead of the Controller of Housing.

5 (3) Where any application for a qualifying certificate made to the Controller of Housing under section 31 of the principal Act in force immediately before the appointed day is pending on that day, such application shall be deemed to be an application for approval to purchase or acquire residential property made to the Controller of Residential Property under that section in force as from that date.

10 (4) In subsections (1), (2) and (3), “appointed day” means the date of commencement of section 25 of this Act.

15 (5) Nothing in this Act shall invalidate any certificate issued before the date of commencement of sections 9 and 12 of this Act by the Controller of Residential Property under sections 10, 10A and 16 of the principal Act.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Residential Property Act (Cap. 274) as announced in Parliament by the Minister for National Development on 19th July 2005 and to make certain other amendments —

- (a) to transfer the authority to approve the purchase or acquisition of any residential property by housing developers from the Controller of Housing to the Controller of Residential Property;
- (b) to empower the court to confiscate benefits derived by an accused from the commission of an offence under section 23 of purchasing or acquiring residential property as a nominee of a foreign person;
- (c) to raise the penalty for certain offences; and
- (d) to streamline the administration of the Act.

The Bill also makes consequential amendments to the Companies Act (Cap. 50) and the Singapore Land Authority Act (Cap. 301).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) to re-define the terms “Singapore company” and “foreign person” to reflect current practice. The definitions of “Singapore limited liability partnership” and “foreign limited liability partnership” have also been amended to mirror the new definitions of “Singapore company” and “foreign company”. A “member” of a company has also been re-defined to include a person who is the



beneficiary of any share held under a trust, and a person who controls the rights attached to a share. Drafting improvements have been made to the definitions of “land” and “society”.

Clause 3 amends section 3 to exclude from the operation of the section any foreign person who is a surviving joint tenant of any estate or interest in any land, and not just registered land (see paragraph (c) of the clause). The other amendments are drafting improvements.

Clause 4 repeals and re-enacts section 4 —

- (a) to allow any foreign person to purchase or acquire any of the following non-restricted residential property:
  - (i) any flat (which is not a landed dwelling-house) that is comprised in a building permitted to be used for residential purposes;
  - (ii) any unit in a condominium development;
  - (iii) any unit in an executive condominium;
- (b) to prohibit any foreign person from purchasing or acquiring all the flats or units in a non-restricted residential property development; and
- (c) to empower the Minister to direct and enforce a sale of any flat or unit in such developments where the foreign person has infringed the rule prohibiting purchase of all the flats or units in any non-restricted residential property development and has failed to comply with the Minister’s direction to dispose of the interest in the development.

Clause 5 makes drafting and consequential amendments to section 5.

Clause 6 repeals and re-enacts section 6 and introduces new section 6A.

The new section 6 consolidates into one comprehensive provision the existing procedures (now in several provisions of the Act) for any attachment and sale of residential property or land by the Controller of Residential Property (the Controller) when he is directed to do so by the Minister under a notice to attach and sell. The new procedure requires a foreign person or his mortgagee or chargee to produce the title deed or certificate of title for the residential property or land to the Controller where the foreign company has been directed by the Controller to dispose of the residential property or land. If the title deed or certificate is not produced, the Controller may sell the residential property or land without having to produce the title deed or certificate of title to the purchaser; a certified true copy of the title deed or a replacement certificate of title is deemed sufficient. The section also enables the Controller to recover the costs incurred by him where the sale by him of any residential property or land which is required to be disposed of is abortive.

The new section 6A consolidates into one comprehensive provision the existing procedure for a foreign person or his mortgagee or chargee to follow in fixing a reserve price before the Controller of Residential Property (the Controller) sells the property under the new section 6. The owner has 28 days to apply to fix the reserve price, in default of which the first mortgagee or chargee has 45 days and in default of which any

second or subsequent mortgagee or chargee has the next 45 days to apply to the Controller to fix the reserve price.

Clause 7 makes technical amendments to section 7.

Clause 8 amends section 8 which is a consequential amendment to clause 6.

Clause 9 repeals and re-enacts sections 9 to 14A.

The new section 9 provides that the new penalty for a Singapore entity, which becomes a converted entity without the prior approval of the Minister, is a fine of up to \$50,000 or imprisonment for a term of up to 3 years or both.

The new section 10 sets out that —

- (a) a Singapore company applying for a certificate (issued by the Controller of Residential Property (the Controller) and stating that the company may acquire and retain residential properties other than non-restricted residential properties, subject to the provisions of the Act) must submit to the Controller a list of its members and directors containing particulars of their nationality and such other particulars as the Controller may require;
- (b) the Controller has the power in certain circumstances to cancel a certificate issued if a Singapore company becomes a foreign company or a converted foreign company without the approval of the Controller or Minister, as the case may be; and
- (c) a Singapore company issued with a certificate can apply for the certificate to be cancelled if it does not own any residential property which is not non-restricted residential property.

The new section 11 sets out that —

- (a) a Singapore limited liability partnership applying for a certificate (issued by the Controller of Residential Property (the Controller) and stating that the limited liability partnership may acquire and retain residential properties other than non-restricted residential properties, subject to the provisions of the Act) must submit to the Controller a list of its partners containing particulars of their nationality and such other particulars as the Controller may require;
- (b) the Controller has the power in certain circumstances to cancel a certificate issued if a Singapore limited liability partnership becomes a foreign limited liability partnership or a converted foreign limited liability partnership without the approval of the Controller or Minister, as the case may be; and
- (c) a Singapore limited liability partnership issued with a certificate can apply for the certificate to be cancelled if it does not own any residential property which is not non-restricted residential property.

The new section 12 makes it clear that the power of the Registrar of Titles or the Registrar of Deeds (the Registrar) to refuse to register an instrument of transfer of a residential property in favour of a Singapore company unless the Registrar is satisfied that all its members are either citizens, Singapore companies or Singapore limited

liability partnerships and all its directors are citizens does not apply in respect of residential property which is non-restricted residential property.

The new section 13 makes it clear that the Registrar's power to refuse to register an instrument of transfer of a residential property in favour of a Singapore limited liability partnership unless the Registrar is satisfied that all its partners are either citizens, Singapore limited liability partnerships or Singapore companies does not apply in respect of residential property which is non-restricted residential property.

The new section 14 sets out the requirement for a Singapore company, prior to becoming a foreign company or a converted foreign company, to obtain the prior approval of the Controller of Residential Property (if it does not own any residential property which are not non-restricted residential property) or the prior approval of the Minister (if it owns any residential property which are not non-restricted residential property).

The new section 14A sets out the requirement for a Singapore limited liability partnership, prior to becoming a foreign limited liability partnership or a converted foreign limited liability partnership, to obtain the prior approval of the Controller of Residential Property (if it does not own any residential property which are not non-restricted residential property) or the prior approval of the Minister (if it owns any residential property which are not non-restricted residential property).

Clause 10 amends section 14B to make it clear that the Controller of Residential Property (the Controller) may issue a fresh certificate stating that a Singapore company which has converted to a limited liability partnership may acquire and retain residential properties subject to the provisions of the Act if the Controller is satisfied that the limited liability partnership is a Singapore limited liability partnership.

Clause 11 amends section 14C(1) to make it clear that the approval to purchase, acquire or retain residential property granted by the Minister which continues to be in force after the date of conversion of the foreign company or converted foreign company to a foreign limited liability partnership does not apply in respect of residential property which is non-restricted residential property.

Clause 12 repeals sections 15 to 18 and re-enacts sections 16, 17 and 18.

The new section 16 sets out that —

- (a) a Singapore society applying for a certificate (issued by the Controller of Residential Property (the Controller) and stating that the society may acquire and retain residential properties other than non-restricted residential properties, subject to the provisions of the Act) must submit to the Controller a list of its trustees and members containing particulars of their nationality and such other particulars as the Controller may require;
- (b) the Controller has the power in certain circumstances to cancel a certificate issued if a Singapore society becomes a foreign society or a converted society without the approval of the Controller or Minister, as the case may be; and

- (c) a Singapore society issued with a certificate can apply for the certificate to be cancelled if it does not own any residential property which is not non-restricted residential property.

The new section 17 sets out the requirement for a Singapore society, prior to becoming a foreign society or a converted society, to obtain the prior approval of the Controller of Residential Property (if it does not own any residential property which are not non-restricted residential property) or the prior approval of the Minister (if it owns any residential property which are not non-restricted residential property).

The new section 18 makes it clear that the Registrar's power to refuse to register an instrument of transfer of a residential property in favour of a Singapore society unless the Registrar is satisfied that all its members are citizens and its trustees are either citizens or a trust company licensed under the Trust Companies Act 2005 (Act 11 of 2005) does not apply in respect of residential property which is non-restricted residential property.

Clause 13 amends section 21(1) to make it clear that the requirement that a foreign person who intends to transfer his estate or interest in any residential property must transfer it only to citizens or approved purchasers does not apply in respect of a residential property which is not non-restricted residential property.

Clause 14 amends section 22 to make it clear that the requirement for every mortgagee or chargee when exercising its powers of sale in respect of residential property to transfer it to citizens or approved purchasers does not apply in respect of residential property which is non-restricted residential property.

Clause 15 amends section 23 by providing a higher penalty for an offence under subsection (1)(a) or (b) where a citizen or approved purchaser purchases or acquires residential property as a nominee for a foreign person, or where a foreign person appoints a citizen or approved person as his nominee to acquire or purchase residential property. The new penalty is a fine of up to \$50,000 or imprisonment for a term of up to 3 years or both.

Clause 16 introduces a new section 23A that empowers a court to make a confiscation order in respect of benefits derived by any person convicted of any offence under section 23(1) if the court is satisfied that such benefits have been so derived. The benefits derived are defined as the value of the estate or interest in residential property held in contravention of section 23 or, if the property is disposed of before conviction, the proceeds of such disposition. The court must make a confiscation order on the application of the Public Prosecutor, and the new section 23A prescribes the method by which the value of those benefits is to be assessed. Once made, a confiscation order is to be enforceable as if it were a fine. Confiscation orders can be made only in respect of offences committed on or after the date of commencement of the clause.

Clause 17 makes a technical amendment to section 24(2).

Clause 18 amends section 25 —

- (a) to empower the Minister to require an applicant for approval to purchase, acquire or retain residential property to provide security and to provide for

the forfeiture of the security if the applicant fails to comply with any condition imposed by the Minister; and

- (b) to make it clear that the section does not apply to non-restricted residential properties.

Clause 19 amends section 26 to make it clear that a Singapore entity which intends to convert to a converted entity need not seek approval to retain residential properties which are non-restricted residential properties.

Clause 20 amends section 27 to empower the Minister to direct the sale of any residential property acquired by a housing developer on the approval of the Minister under section 31 if the developer fails to comply with any condition imposed by the Minister.

Clause 21 amends section 28 to empower the Minister to require a foreign person who applies for approval of change of existing use of any property to use for residential purposes to provide security and to provide for the forfeiture of the security if the person fails to comply with any condition imposed by the Minister.

Clause 22 amends section 28A(1) by transferring the administration of the provision from the Controller of Housing to the Controller of Residential Property. Applications by foreign persons who wish to develop their non-residential land for a residential purpose will be required to be made to the Minister through the Controller of Residential Property.

Clause 23 makes a consequential amendment to section 29(4) arising from the amendment made in clause 2 to delete the definition of “Controller of Housing”.

Clause 24 makes amendments to section 30 to require foreign governments and religious groups who wish to acquire residential property which is not non-restricted residential property to obtain prior approval from the Minister.

Clause 25 repeals and re-enacts section 31 —

- (a) to transfer the authority to approve the purchase of any residential property by housing developers now vested in the Controller of Housing under the Minister for National Development to the Controller of Residential Property;
- (b) to provide that the Controller of Residential Property (the Controller) may approve any application by a housing developer to purchase residential property subject to such terms and conditions as he may think fit, including the following:
  - (i) the condition prohibiting the housing developer from selling the residential property in a vacant or undeveloped state without the prior approval of the Controller;
  - (ii) where the housing developer is a company, a limited liability partnership or a society, the condition prohibiting a person who holds shares in the company or who is a partner in the limited liability partnership or member of the society from selling, assigning, transferring or otherwise disposing of any of his shares or any interest

in such shares to any other person, or from resigning as such partner or member, as the case may be, without the prior approval of the Controller;

- (c) to provide that where a housing developer which is subject to the conditions described in paragraph (b), is in breach of either of the conditions described in that paragraph, the housing developer may be liable to pay a financial penalty of up to 50% of the purchase price of the residential property acquired by the housing developer;
- (d) to provide that where the housing developer in breach of the conditions described in paragraph (b) is a company, limited liability partnership or society, the directors of the company, partners of the limited liability partnership or members of the governing board or board of trustees of the society, as the case may be, may also be jointly and severally liable with the housing developer for the financial penalty; and
- (e) to empower the Registrar of Titles to enter a notice in the land-register to warn persons dealing with the housing developer that the housing developer is prohibited from selling the land in a vacant or undeveloped state.

Clause 26 amends section 32 to empower the Minister to require an exempt person to dispose of his residential property on revocation of that exemption.

Clause 27 amends section 33 —

- (a) to enable a foreign company (which is also a trust company licensed under the Trust Companies Act 2005 (Act 11 of 2005)) to purchase and hold any residential property in trust for beneficiaries who are citizens of Singapore or approved purchasers;
- (b) to enable the Official Assignee to be registered as the proprietor of the residential property;
- (c) to allow for the purchase or acquisition by a foreign person of any estate or interest in any residential property from other agents of the Government apart from the Urban Redevelopment Authority;
- (d) to allow a foreign person to purchase or acquire an estate or interest directly from the Housing and Development Board under Part IV of the Housing and Development Act (Cap. 129) or from an approved developer under Part IVB of that Act;
- (e) to allow the transfer to any foreign person of an estate or interest in any residential property under Part IV or IVB of the Housing and Development Act or Part IV of the Jurong Town Corporation Act (Cap. 150) in any case where the prior written consent of the Housing and Development Board or the Jurong Town Corporation, as the case may be, has been obtained and where no instrument has been registered in respect of that property under section 126 of the Land Titles (Strata) Act (Cap. 158) (whether alone or read with section 126A of the Land Titles (Strata) Act, as the case may be); and

- (f) to make it clear that where a foreign company owns any residential property acquired before 11th September 1973 or owns residential property which was the subject of an application to the Minister, such property is still subject to the relevant provisions of the Act notwithstanding that the foreign company may, for the purposes of regularising its title, have surrendered the property to the Government for the issue of a new title in lieu.

Clause 28 amends section 34(1) to incorporate certain consequential changes arising from the amendment made to section 4 by clause 4.

Clause 29 amends section 35 to extend the penalty prescribed therein to housing developers who fail to comply with any condition imposed by the Minister under section 31.

Clause 30 amends section 36A(1) by raising the maximum composition sum from \$200 to \$2,000.

Clause 31 inserts a new section 36B which confers on District Courts jurisdiction to try offences under the Act or any regulations made thereunder.

Clause 32 repeals and re-enacts section 38 to provide for service of summonses on any person in connection with any offence under the Act. The new section 38 also makes it clear that when a notice, direction or summons is served by registered post, it is deemed to have been received 2 days after the notice, direction or summons was posted and notwithstanding that it may be returned undelivered.

Clause 33 amends section 40(1) to transfer from the Minister to the Singapore Land Authority (the Authority) the powers to make rules for the purposes of the Act. With this amendment, the Authority is to exercise its rule making powers with the approval of the Minister.

Clause 34 makes a consequential amendment to section 34 of the Companies Act (Cap. 50).

Clause 35 makes a consequential amendment to the Third Schedule to the Singapore Land Authority Act (Cap. 301).

Clause 36 contains certain savings provisions. In particular, where any qualifying certificate has been issued to a housing developer by the Controller of Housing under section 31 of the Act in force immediately before the date of commencement of clause 25, then —

- (a) such qualifying certificate will be deemed to be an approval granted by the Controller of Residential Property under the new section 31 as enacted by clause 25; and
- (b) any security provided by a housing developer to the Controller of Housing under the terms and conditions of such qualifying certificate will be deemed, as from the date of commencement of clause 25, to have been a security provided by the housing developer to the Controller of Residential Property under the terms and conditions of the approval.

Further, where any application for a qualifying certificate made to the Controller of Housing under section 31 of the Act in force immediately before the date of commencement of clause 25 is pending on that day, the application will be deemed to be an application for approval to purchase or acquire residential property made to the Controller of Residential Property under the new section 31 as enacted by clause 25.

### EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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